



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

January 31, 1994

Mr. Bryan M. Perot
Executive Officer
Texas Polygraph Examiners Board
P.O. Box 4087
Austin, Texas 78773-0001

Letter Opinion No. 94-014

Re: Whether the Psychologists' Certification and Licensing Act, V.T.C.S. art. 4512c, precludes licensed polygraph examiners from referring to themselves as "forensic psychophysiologicalists" or to the polygraph services they provide as "the psychophysiological detection of deception" or "forensic psychophysiology" (ID# 22899)

Dear Mr. Perot:

On behalf of the Texas Polygraph Examiners Board (the "board"), you ask whether the Psychologists' Certification and Licensing Act, V.T.C.S. art. 4512c, precludes licensed polygraph examiners from referring to themselves as "forensic psychophysiologicalists" or to the polygraph services they provide as "the psychophysiological detection of deception" or "forensic psychophysiology." You explain that these new terms are rapidly being accepted and utilized by polygraph practitioners nationwide.

You are concerned that polygraph examiners may be precluded from using these terms by section 22(c) of the Psychologists' Certification and Licensing Act, V.T.C.S. art. 4512c, as recently amended by the 73rd legislature, which provides:

Nothing in this Act shall be construed to apply to:

....

(c) the activities and services or members of other licensed professions, including physicians, surgeons, attorneys, registered nurses, licensed vocational nurses, occupational therapists, certified social workers, licensed professional counselors, career counselors, licensed marriage and family therapists, and licensed chemical dependency counselors, if the activities and services are permitted under the applicable license and the members do not represent themselves to be psychologists or describe their services by the use of the term "psychological."

V.T.C.S. art. 4512c, § 22(c), *as amended* by Acts 1993, 73d Leg., ch. 778, § 21 (eff. Sept. 1, 1993). You appear to be concerned that the use of the terms

"psychophysiological," "psychophysiological" and "psychophysiology" by polygraph examiners would bring them within the ambit of the Psychologists' Certification and Licensing Act by virtue of this provision. We believe your concern is unfounded.

Section 22(c) of the Psychologists' Certification and Licensing Act excepts from the statute's regulatory scope other licensed professionals unless they describe themselves as "psychologists" or use the term "psychological." Although the terms "psychophysiological," "psychophysiological" and "psychophysiology" contain the same Greek root as the terms "psychologist" and "psychological," the terms at issue do not contain the terms "psychologist" and "psychological" and they have different meanings than those terms. Furthermore, we believe that if the legislature had intended to bring within the ambit of the Psychologists' Certification and Licensing Act all licensed professionals who use the Greek root "psych" or "psycho" to describe themselves or their services, it would have provided so expressly. Therefore, we believe that it would be inappropriate for us to interpret this provision to that effect here.¹ For these reasons, we conclude that the legislature did not intend for a polygraph examiner who uses the terms "psychophysiological," "psychophysiological" and "psychophysiology" to be subject to the Psychologists' Certification and Licensing Act.²

Finally, we caution that the Polygraph Examiners Act, V.T.C.S. art. 4413(29cc), does not appear to permit licensed polygraph examiners to refer to themselves as "licensed psychophysiologicals." We find no authority in the Polygraph Examiners Act for licensed polygraph examiners to describe their licenses as anything other than "polygraph examiner's licenses" or to describe themselves as anything other than "licensed polygraph examiners," or for the board to issue anything other than "polygraph examiner's licenses." See V.T.C.S. art. 4413(29cc) § 19(6) (making any willful misrepresentation or false promises or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees is basis for discipline). We believe that the legislature must amend the Polygraph Examiners Act in order for licensed polygraph examiners to refer to themselves as "licensed psychophysiologicals."

¹We note, for example, that if we construed section 22(c) to subject any licensed professional who uses the root "psych" or "psycho" to describe his or her profession or services, then psychiatrists would be subject to the Psychologists' Certification and Licensing Act, a result the legislature clearly did not intend.

²Of course, any polygraph examiner who represents himself or herself to be a psychologist, or who describes his or her services by the use of the term "psychological" would be subject to the Psychologists' Certification and Licensing Act.

S U M M A R Y

A polygraph examiner who uses the term "psychophysiological" to describe his or her profession, or the terms "psychophysiological" and "psychophysiology" to describe his or her services is not subject to the Psychologists' Certification and Licensing Act, V.T.C.S. art. 4512c, by virtue of section 22(c) of that act. The Polygraph Examiners Act, V.T.C.S. art. 4413(29cc), does not authorize licensed polygraph examiners to describe their licenses as anything other than "polygraph examiner's licenses" or to describe themselves as anything other than "licensed polygraph examiners," or authorize the board to issue anything other than "polygraph examiner's licenses."

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee